

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

YVES FLORESTAL,	)	C.A. No. 07-128-JJF
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
GOLDEN HARRINGTON, LLC	)	TRIAL BY JURY DEMANDED
a Delaware limited liability company, and	)	
TWENTY-NINE CORP., a	)	
Maryland corporation	)	
	)	
Defendant.	)	

**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26 (f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by July 15, 2007 the information required by Fed. R. Civ. P. 26 (a) (1) and D. Del. LR 16.2.
2. **Joinder of other parties.** All motions to join other parties shall be filed on or before August 31, 2007.
3. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact Magistrate Judge Thyng to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.
4. **Discovery.**

( a ) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by February 1, 2008.

( b ) Maximum of 25 interrogatories by each party to any other party.

( c ) Maximum of 50 requests for admission by each party to any other party.

( d ) Maximum of 10 depositions by plaintiff (s) and 10 by defendant(s). Depositions shall not commence until the discovery required by Paragraph 4 (a, b and c) are completed.

(e) Reports from retained experts required by Fed. R. Civ. P. 26 (a) (2) are due from the plaintiff(s) by November 1, 2007; from the defendant(s) by January 1, 2008.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

#### **5. Discovery Disputes.**

( a ) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

( b ) All papers shall set forth in a plain and concise manner and issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

( c ) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) that the parties have completed briefing.

( d ) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

( e ) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

**6. Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before August 31, 2007.

**7. Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before April 1, 2008. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court.

**8. Applications by Motion.**

( a ) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 1997). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

( b ) No facsimile transmissions will be accepted.

( c ) No telephone calls shall be made to Chambers.

( d ) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

**9. Pretrial Conference.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference. The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

---

DATE

---

UNITED STATES DISTRICT JUDGE

LAW OFFICES

**SCHMITTINGER AND RODRIGUEZ, P.A.**

414 SOUTH STATE STREET  
POST OFFICE BOX 497  
DOVER, DELAWARE 19901  
TELEPHONE 302-674-0140  
FAX 302-674-1830

HAROLD SCHMITTINGER  
OF COUNSEL

NEWARK OFFICE  
CHRISTIANA EXECUTIVE CAMPUS  
220 CONTINENTAL DRIVE, STE 203  
NEWARK, DELAWARE 19713  
TELEPHONE 302-894-1960  
FAX 302-894-1965

REHOBOTH BEACH OFFICE  
WACHOVIA BANK BUILDING  
18489 COASTAL HIGHWAY, 2ND FLR  
REHOBOTH BEACH, DELAWARE 19971  
TELEPHONE 302-227-1400  
FAX 302-645-1843

ODESSA OFFICE  
ODESSA PROFESSIONAL PARK  
POST OFFICE BOX 626  
ODESSA, DELAWARE 19730  
TELEPHONE 302-378-1697  
FAX 302-378-1659

NICHOLAS H. RODRIGUEZ  
PAUL H. BOSWELL  
JOHN J. SCHMITTINGER  
DOUGLAS B. CATTS  
WILLIAM D. FLETCHER, JR.  
CRAIG T. ELIASSEN  
WILLIAM W. PEPPER SR.  
CRYSTAL L. CAREY\*  
SCOTT E. CHAMBERS\*  
FRED A. TOWNSEND III  
NOEL E. PRIMOS  
DAVID A. BOSWELL  
WALT F. SCHMITTINGER  
R. SCOTT KAPPES  
JEFFREY J. CLARK  
BETH B. MILLER  
KYLE KEMMER  
KATHRYN J. GARRISON  
MAGNOLIA SOLANO  
ERIN K. FITZGERALD  
RYAN C. MEADOWS  
B. BRIAN BRITTINGHAM

\*ALSO ADMITTED IN MARYLAND

July 20, 2007

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
for the District of Delaware  
844 King Street  
Wilmington, DE 19801

**VIA ELECTRONIC FILING**

**RE: Florestal v. Golden Harrington, LLC, et al.**  
C.A. No.: 07-128 (JJF)

Dear Judge Farnan:

Enclosed for Your Honor's review is a proposed Scheduling Order for the above-referenced case. The parties jointly developed this proposed Order during their recent Rule 26(f) conference.

Counsel are available at the Court's convenience if Your Honor has any questions.

Respectfully,



NOEL E. PRIMOS  
Bar I.D. #3124

NEP:rp

Enclosure

cc: Michael P. Stafford, Esquire (via electronic filing)